

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**DEBTOR'S MOTION TO MODIFY CONFIRMED PLAN IN RESPONSE TO
TRUSTEE'S MOTION TO DISMISS CASE AND FOURTH REQUEST FOR
ADDITIONAL ATTORNEY FEES**

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing held.

A timely response is necessary for a hearing to be held. A hearing is scheduled for 2/13/2018 (per the TMTD).

To the Honorable United States Bankruptcy Judge:

NOW COMES the Chapter 13 Debtor by and through his attorney files this *Motion to Modify Confirmed Plan*, and in support thereof would show the Court as follows:

1. The Debtor filed a voluntary petition for relief under Chapter 13 on 8/29/2014. The Chapter 13 Plan was confirmed on 1/22/2015 and subsequently modified by Order entered 10/15/2015 and additionally on 4/12/2017. According to the Order Sustaining Debtor's Motion to Modify Confirmed Plan entered 4/12/2017, the Confirmed Plan provides for a distribution to unsecured creditors equal to 100% of their claims.
 2. The current modified plan calls for monthly payments of \$1185 per month for the remaining 18 months of a 60 month plan. The base amount of the plan is currently \$76,998.44.
 3. The Debtor's first plan payment was due on 9/28/2015. The plan is therefore currently in month 42. The last payment posted to Debtor's case was on 1/8/2018. The Debtor is in default on the payments to the Trustee under the plan.

4. The reason for this modification is to adjust Debtor's plan payment to propose a positive cure of his existing plan default and address the arrears that have accrued to the secured lienholders for Debtor's car and home. Debtor defaulted under the terms of the plan due to job loss. Further, Debtor has not received rental income since August, 2017.
5. The Debtor's ongoing mortgage payment is being paid through the Chapter 13 Plan and is not current due to the Debtor's plan payment delinquency. The Debtor proposes adding a secured post-petition arrearage claim for Wells Fargo mortgage for three (3) missed ongoing mortgage payments in the amount of \$733.42 each for the months of December/2017, January/2018, and February/2018, for a total claim of \$2200.26 to be paid at 0% interest through the Chapter 13 Plan.
6. Further, Debtor proposes a one time lump sum disbursement to Auto Financial Services Inc. in the amount of \$1658.84 to bring the past due payments current with the next available disbursement in addition to the regular monthly set payment. After the past due payments are brought current to Auto Financial Services Inc., regular payments will resume per the Debtor's confirmed plan.
7. The Debtor's current budget will allow a monthly payment of \$1185 for month 42 and then \$1340 per month for months 43-60 which will be sufficient to pay the debts in the remaining 19 month month plan to pay all of the secured and priority debts in full with a distribution to unsecured creditors equal to 100% of their claims. The new base amount will be \$76,998.84, which was derived by adding the total paid in months 1-40 in the amount of \$50,909.56, plus \$2187.68 (\$1093.84 x 2) months 41-42, plus \$1000 to be remitted by Debtor no later 1/22/2018, plus \$24,120 which represents the modified payment of \$1340 x 18, months 43-60.
- 8.. The Debtor has filed an Amended Schedule I and J contemporaneously with this motion which demonstrates that the Debtor is providing all current and anticipated disposable income to the plan and that the Debtor has the ability to continue the case as proposed.

9. The Debtor has incurred attorney fees in the amount of \$650 for filing this Motion to Modify, and request that these fees be paid through the plan at the rate of \$100.00 per month. This is the fourth request for additional attorney fees. The original benchmark fees of \$3500 were granted to the attorney at Confirmation, and subsequently on 10/15/2015 for Debtor's Motion to Modify, 4/21/2017 \$650 was awarded for Debtor's Motion to Modify, and on 4/21/2017 \$450 was awarded for Motion to Request Tas Refund and are paid through Debtor's' plan.

Wherefore, Debtor asks that the Court enter an Order Modifying Debtor's Confirmed Chapter 13 Plan, award attorney's fees, and for such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED,

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Certificate of Service

This is to certify that a true and correct copy of the above motion has been forwarded via electronic filing, facsimile, or regular mail on 1/11/2018 to the following creditors and all creditors on attached pages.

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